

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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UNI-CON FLOORS, INC )  
Plaintiff, )  
 )  
v. )  
 )  
BRICKLAYERS & ALLIED CRAFTSMEN )  
UNION, LOCAL 3 - EASTERN )  
MASSACHUSETTS )  
Defendant. )  

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C.A. No.: 05-10463-NG

SOROKIN, M.J.

DECEMBER 28, 2005

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ORDER

Today, the Court convened the Rule 16 status conference. Defendant had filed a timely proposed trial schedule in which it indicated it had received no response from Plaintiff's counsel despite messages left with Plaintiff counsel's office. Although the Clerk twice sent written notice of the hearing to Plaintiff's Counsel's office (at the address counsel's office confirmed as correct during the hearing today), he did not appear or otherwise seek to continue the hearing. In addition, to date, plaintiff has not filed an opposition to the defendant's Motion for Summary Judgment filed on November 16, 2005 or sought a continuance in the now passed filing deadline of December 5, 2005.

At the hearing, the Clerk, ultimately, reached Plaintiff's counsel on his cell phone. Counsel indicated he thought he had dictated an assent to Defendant's proposed trial schedule and indicated he had not received notice of the hearing. Plaintiff's counsel requested some additional time to file a late opposition to Defendant's summary judgment motion.

Both counsel are in agreement that if defendant prevails on its Motion, all that remains is a calculation of damages. Alternatively, if the Motion is denied, they agree the matter will require a trial absent settlement.

WHEREFORE, the Court ORDERS:

1. Plaintiff shall file his opposition to Defendant's Motion for Summary Judgment by the close of business January 6, 2005. No extensions in this date will be allowed. Defendant may, if it so elects, file a reply by January 20, 2005 not to exceed five pages.
2. All discovery will conclude by March 3, 2006. Plaintiff does not intend to file a Motion for Summary Judgment.
3. Both counsel shall appear for a status conference on March 7, 2006 at 2:15 p.m.

/s/ Leo T. Sorokin

Leo T. Sorokin

United States Magistrate Judge